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2 November 1990
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ORIGINAL: FRENCH

SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT
REPRESENTATIVE OF LIECHTENSTEIN TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Liechtenstein to the United Nations presents her compliments to the Secretary-General and, in reply to his note of 8 October 1990 concerning resolution 661 (1990) on the situation between Iraq and Kuwait, has the honour to transmit the reply of the Government of Liechtenstein to the questionnaire annexed to that note.

best copy available

Annex

Reply of Liechtenstein to the questionnaire concerning national measures in implementation of resolution 661 (1990)

1. Legislative framework

(a) Ordinance of the Prince of 10 August 1990.

(b) No. The Ordinance of the Prince (see (a)) is the necessary legal basis for implementation of the resolution.

(c) See (b).

Note: For the text of the Ordinance see the note of the Government of the Principality of Liechtenstein dated 5 September 1990 and the annex to this questionnaire (German text).*

2. and 3. Control of imports and exports

(a) (b) On the basis of the customs treaty between Liechtenstein and Switzerland, the Swiss authorities are responsible for the control of imports and exports. The Government of the Principality is responsible for internal controls in connection with the resolution.

(See reply of Switzerland (S/AC.25/1990/5).)

4. Control of economic and financial resources

(a) Control system

The Government oversees the banks, which are subjected to the strictest scrutiny, through its Banking Commission, acting in exercise of the powers vested in it.

Furthermore, given the criminal nature of unauthorized transfers, all enforcement measures are applicable. The public prosecutor is responsible for prosecuting any offence. Co-operation between States is an important factor.

(b) Specific measures

The legislation that has been enacted requires banks and all depositaries of funds to report to the Government Iraqi and Kuwaiti assets which they manage; failure to comply with this absolute obligation will result in punishment under the law.

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* The text of the Ordinance (in German) may be consulted in room S-3520.

Above all, the transfer of financial and economic resources for the benefit of individuals or bodies corporate residing in occupied Kuwait or in Iraq, or any other financial transfer which could benefit the aggressor State, is prohibited by the Ordinance of the Prince, under penalty of imprisonment. In addition, the rendering of financial or any other services for the benefit of Iraq is prohibited.

5. Enforcement

(Articles 7 and 8 of the Ordinance of the Prince)

(a) Penalties shall be imposed on anyone who:

(i) carries out operations within the meaning of articles 1 and 2 with individuals or bodies corporate established under public or private law from Iraq or Kuwait;

(ii) carries out such operations with third parties while knowing or reasonably being expected to know that the actual beneficiaries are individuals or bodies corporate established under private or public law from Iraq or Kuwait;

(iii) violates the obligation to make a declaration set forth in article 3 of the Ordinance.

(b) The penalties shall be as follows:

(i) a violation of the prohibition of trade, payments and loans is punishable by a fine of up to 10 times the intrinsic value of the goods in question. The intrinsic value shall be calculated on the basis of the market price applicable at the time when the offence is detected. For other financial transactions, the penalty shall be a fine of up to 10 times the sum in question;

(ii) violation of the obligation to make a declaration is punishable by a fine of up to 5,000 Swiss francs.

(c) Anyone who, intentionally and without authorization, unlawfully transfers or causes to be transferred patrimonial assets to other legal persons shall be punished by up to one year of imprisonment or a fine of up to 360 days per diem equivalents.

(d) The penalties prescribed in sections 2 (a) and 3 may be combined.

(e) If the offence was a result of negligence, the penalty shall be reduced by half.

(f) The general provisions of the penal code of 24 June 1987 shall apply, subject to the provisions of the Ordinance of the Prince.

(g) Where a violation of the Ordinance of the Prince has been committed in the service of a body corporate, private company or limited partnership or an individual undertaking, the persons who have acted or should have acted on their behalf and who are jointly and severally liable shall be punished. Punishment may also include the dissolution or automatic liquidation of a company listed in the Public Register.

6. Other

(a) Problems

The measures relating to the freeze have been well received. Like Kuwait, Liechtenstein is a small State, and there is a quite definite sense of solidarity.

(b) Contracts entered into and licences

Contracts entered into and licences granted before the date of the resolution may no longer be executed or honoured and any payment or delivery, including for services rendered, is prohibited, under penalty of law.

(c) Protection of assets of the legitimate Government of Kuwait

Article 5 of the Ordinance of the Prince prohibits any transfer of the assets of the Government of Kuwait to other individuals or bodies corporate and, in addition, any transfer of these assets to Kuwait or Iraq.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 30 OCTOBER 1990 FROM THE PERMANENT MISSION OF AUSTRALIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Australia to the United Nations presents its compliments to the Secretary-General and has the honour to transmit to him, in reply to the questionnaire circulated in his note of 8 October 1990, the attached list of measures taken by Australia in application of Security Council resolution 661 (1990).

READEX FICHE

Annex

Iraq/Kuwait: implementation of sanctions

1. Legislative framework

(a) Australia has no special legislation to implement United Nations sanctions. The main provisions of Security Council resolution 661 (1990) have therefore been implemented by the exercise of regulatory powers under existing legislation;

(b) No;

(c) Statutory Rules, comprising Regulations. Copies attached* of:

(i) Statutory Rules 1990, No. 264 Customs (Prohibited Exports) Regulations (Amendment);

(ii) Statutory Rules 1990, No. 265 Customs (Prohibited Imports) Regulations (Amendment);

(iii) Statutory Rules 1990, No. 266 Banking (Foreign Exchange) Regulations (Amendment);

(iv) Statutory Rules 1990, No. 281 Migration (Iraq and Kuwait) (Security Council resolution 661 (1990)) Regulations.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) Australian Customs Service;

Minister for Foreign Affairs and Trade;

Minister of Immigration, Local Government and Ethnic Affairs;

(b) The specific measures are contained in the attached copies** of the Customs (Prohibited imports) Regulations and the Migration (Iraq and Kuwait) (Security Council resolution 661 (1990)) Regulations.

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* Copies of the Statutory Rules may be consulted in room S-3520.

** Not submitted by the delegation.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) As for 2 (a) above;

(b) The specific measures are contained in the attached copies** of the Customs (Prohibited exports) Regulations and the Migration (Iraq and Kuwait) (Security Council resolution 661 (1990)) Regulations.

4. Control of financial or economic resources

(a) and (b) Pursuant to the Banking (Foreign exchange) Regulations, the Treasurer wrote to the Governor of the Reserve Bank directing him to give effect to Australia's obligations under resolution 661 (1990). The Reserve Bank then wrote to all authorized dealers of foreign exchange amending their authority so as to prohibit:

(i) The transfer out of Australia of any Australian currency relating to property, securities or funds in Australia belonging directly or indirectly to the Government of Iraq or Kuwait, their agencies or nationals;

(ii) The buying or selling of foreign currency in Australia by any persons when the foreign currency relates to transactions in property, security or funds belonging directly or indirectly to the Government of Kuwait or Iraq, their agencies or nationals;

(iii) The payment in Australia by any person to or, at the order of, the Government of Kuwait or Iraq, their agencies or non-resident nationals.

Such transactions are only possible with the specific approval of the Reserve Bank. The Bank will approve transactions with the legitimate Government of Kuwait or its agencies or where there is evidence of genuine humanitarian need.

5. Enforcement

There is provision in the Customs Act for goods which are attempted to be imported into or expected from Australia in breach of the Prohibited Import and Export Regulations to be seized and forfeited.

6. (a) No significant problems have been encountered;

(b) Contracts entered into before the date of the resolution are not excluded from the application of the relevant regulatory measures;

(c) The specific measures to protect the assets of the legitimate Government of Kuwait and its agencies are mentioned in section 4 above.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT MISSION OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Union of Soviet Socialist Republics to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to his note dated 8 October 1990, has the honour to transmit, in addition to the information submitted earlier, the following information concerning the implementation by the Soviet Union of Security Council resolution 661 (1990).

By an order dated 16 August 1990 of the Council of Ministers of the USSR, ministries and departments of the USSR involved in trade, economic, financial and credit links with Iraq and Kuwait were instructed to adopt appropriate measures for the implementation of the resolution.

The monitoring of compliance with this order was entrusted to the Interdepartmental Working Group, chaired by Mr. I. S. Belousov, Vice-President of the Council of Ministers of the USSR, and set up by an order dated 8 August 1990 of the President of the USSR.

With effect from the date of adoption of the resolution, a complete ban was imposed on deliveries in the context of export-import operations, including deliveries of equipment, materials, spare parts and other cargoes to be used in work on capital-investment projects, and also on the assignment of specialists. All types of financial transactions with Iraq were halted.

Soviet specialists giving assistance on construction projects in Iraq on the basis of existing material and technical resources continue to be repatriated to the USSR. As of 25 October 1990, the number of specialists in Iraq had been reduced from 7,300 to 3,800.

The Ministry of Civil Aviation of the USSR has taken the following measures for the implementation of Security Council resolution 661 (1990):

- The acceptance for carriage of all cargoes, with the exception of mail carried on Aeroflot flights and destined for Baghdad, is prohibited;

- The leasing of Aeroflot aircraft to be used subsequently in giving assistance to Iraq is prohibited;

- Flights by Aeroflot aircraft into Kuwait have been halted;

- Flights by Aeroflot aircraft into Iraq are carried out only for the purpose of evacuating Soviet specialists. In addition, at the request of the Turkish authorities, flights of Aeroflot aircraft to Baghdad make a stop at Ankara for the purpose of undergoing inspection;

- Aeroflot assists third countries in the evacuation of refugees from Iraq and Kuwait by carrying out flights from States bordering on Iraq and Kuwait.

The USSR Ministry of Defence has suspended military and technical co-operation with Iraq, including shipments of military equipment and weapons, the sending of Soviet military specialists and the extension of their tours of duty in the country. Supply ships with military cargoes intended for Iraq have been returned to the USSR.

Soviet military specialists are in Iraq in accordance with agreements between the Governments. Upon the completion of their contractual obligations, the military specialists return to the Soviet Union. Since the beginning of the conflict, all family members of military specialists (216 persons) as well as 73 military specialists and 8 translators have been evacuated from Iraq.

At the present time, there are 93 Soviet military specialists and 40 translators in Iraq.

In carrying out measures in accordance with Security Council resolution 661 (1990), the Soviet Union has encountered the following problems.

In connection with the continuing stay of Soviet citizens in Iraq, an acute problem has arisen with regard to providing them with food.

Furthermore, because of the blockade of Iraqi oil ports, Iraq has halted shipments of oil (intended for re-export) in payment of debts for Soviet State credits used earlier. In 1990, 6.5 million tons of oil of approximately 10.5 million tons earmarked for annual shipment in accordance with an intergovernmental protocol on the regulation of payments for the period 1990-1991 were shipped to India and Bulgaria. Halting the shipments has made it necessary to compensate for the resulting shortage by exporting oil to India and Bulgaria from Soviet sources, which complicates the situation with regard to fuel and energy resources in the country and creates additional difficulties in the financial relations of the USSR with India, whereby the negative balance in accounts with that country may reach approximately 1 billion roubles by the end of 1990.

The Soviet Union is prepared to continue its active co-operation with the Security Council Committee on sanctions in order to ensure the effective implementation of Security Council resolution 661 (1990).

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SECURITY COUNCIL COMMITTEE ESTABLISHED BY
RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF GREECE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Greece to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to attach a memorandum by the Government of Greece in response to the questionnaire circulated by the Secretary-General in his note of 8 October 1990.

Annex

Memorandum

THE IMPLEMENTATION OF RESOLUTION 661 (1990): REPLY TO QUESTIONNAIRE CONCERNING NATIONAL MEASURES

Question 1

(a) The implementation of United Nations Security Council resolutions is regulated by Law 92 of 10 August 1967, which provides the following.

The President of the Republic, upon recommendation of the Minister for Foreign Affairs and other Ministers concerned, issues presidential decrees about the implementation of Security Council resolutions adopted under Article 41 of the Charter of the United Nations.

Before such presidential decrees are issued, the Minister for Foreign Affairs arranges for publication of the relevant Security Council resolutions in the Government Gazette;

(b) and (c) In accordance with the above law:

(i) The Minister for Foreign Affairs arranged for the publication of resolution 661 (1990) (ministerial decision F.3210.1/AS 557 of 22 August 1990 - FEK A');

(ii) The President of the Republic, upon recommendation of the Ministers for Foreign Affairs, National Defence, National Economy, Finance, and Commerce, as well as of the Alternate Minister for Merchant Marine, issued Presidential Decree No. 300 (14 September 1990), which prohibits all activities, transactions and actions prohibited by resolution 661 (1990) and determines that offenders shall be subject to punishment provided by Law 92 of 1967.

Furthermore, Greece, as a member of the European Economic Community, is bound by and implements Community regulation 2340/90, ensuring the uniform implementation within the Community of measures adopted by the Security Council concerning transactions with Iraq and Kuwait.

Question 2

(a) The Ministry of Commerce and the Customs authorities at entry points are responsible for controlling imports. The latter are responsible for enforcing controls on the import of goods originating in Iraq or Kuwait;

(b) The Ministry of Commerce issued circular directive No. E3/5347 of 9 August 1990 addressed to the Ministry of Finance, the Bank of Greece and the prefectures of the country, informing them of the ban on imports of goods

originating in Iraq or Kuwait, effective as of 7 August 1990, pursuant to resolution 661 (1990) of the United Nations Security Council and to directive 2340/90 of the European Communities.

Question 3

(a) The Ministry of Commerce is responsible for issuing export licences, and Customs authorities at entry points are responsible for enforcing the provisions and restrictions of such licences;

(b) Through a series of circular directives, the Ministry of Commerce and the Bank of Greece have notified export agencies and the Chamber of Commerce of the ban on exports to Iraq and Kuwait of goods originating in Greece or in other countries.

Question 4

(a) In implementing resolution 661 (1990) and relevant directives of the European Communities, the Greek authorities have blocked all accounts of persons or companies residing or based in Iraq or Kuwait, while any payments allowed by resolution 661 (1990) out of these accounts are under strict control;

(b) Instructions issued by the Bank of Greece to all banks under its control aim at the strict implementation of the ban on movements of funds to Iraq and Kuwait. Furthermore the Bank of Greece is responsible for investigating any alleged breaches of the ban.

Question 5

Under the terms of Presidential Decree No. 300 of 14 September 1990, a person convicted for violating its provisions is liable to punishment as stipulated by Law 92 of 1967, i.e.:

(a) Imprisonment of up to five years, without suspension or conversion of the penalty;

(b) Fine of up to 1 million drachmas;

(c) Both imprisonment and fine as above.

In cases of violations, legal action is instituted ex officio by the public prosecutor. Under the terms of Law 92 of 1967, a person is considered an offender if proven to be involved in the transactions or actions that are prohibited.

Question 6

(a) No significant problems have been experienced in implementing resolution 661 (1990), as concerns the control of trade. Some difficulties have arisen, however, in determining the extent to which the embargo applies to services;

(b) Under the terms of Presidential Decree No. 300 of 14 September 1970, all transactions, actions and activities prohibited by resolution 661 (1990) are prohibited, even if they relate to contracts entered into or licences granted before 6 August 1990;

(c) In implementing paragraph 9 of resolution 661 (1990) and the relevant provisions of European Communities directive 2340/90 as amended recently, Greece does not prohibit transactions or activities, including services of a non-financial character, involving companies or services controlled by the legitimate Government of Kuwait.

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THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 2 NOVEMBER 1990 FROM THE PERMANENT MISSION OF PORTUGAL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Portugal to the United Nations presents its compliments to the Secretary-General and has the honour to transmit to him, in reply to the questionnaire circulated in his note SCPC/7/90 (3) of 8 October 1990, the list of measures taken by Portugal in application of Security Council resolution 661 (1990).

Annex

Measures taken by Portugal in application of Security Council resolution 661 (1990)

1. Legislative framework

(a) In addition to applicable legislation adopted were two Council of Ministers resolutions of 9 and 23 August 1990, EEC regulation No. 2340 of 8 August 1990 and decision 90/414/CECA of 8 August 1990;

(b) All the above-mentioned measures except the applicable general law;

(c) The deliberations of the Council of Ministers charge the various ministerial departments to apply the sanctions specified in resolution 661 (1990). Each of those departments adopted internal administrative measures for that purpose (Customs Administration, Bank of Portugal, Insurance Institute of Portugal and National Credit-Guarantee Commission).

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) (i) For trade embargo (imports), the Foreign Trade Administration, Customs Administration and Bank of Portugal;

(ii) For petroleum-import embargo, the Energy Administration and Customs Administration;

(iii) For ocean-transport embargo, the Navigation and Ocean-Transport Administration;

(iv) For air embargo, the Civil Aviation Administration;

(v) Freezing of assets and related financial operations, the Bank of Portugal;

(b) Imports from Iraq and Kuwait were made subject to prior licensing in order to prevent them from being carried out. To this end the Foreign Trade and Customs Administration circulated instructions to their subordinate departments in the national territory. Import control is also exercised by the Bank of Portugal, which now requires prior authorization for carrying out and settling dealing with goods, invisible payables and capital.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) Control of exports or activities is the responsibility of the Customs Administration and the Bank of Portugal;

(b) Same measures as referred to in item 2 (b).

4. Control of financial and economic resources

(a) The prohibition system covers contracting or performance of any banking operations, specifically foreign-exchange transactions, capital operations and cash-deposit activity, operations involving stocks and bonds or any other securities in custody with financial institutions. In addition to these measures, the carrying out and settling of transactions involving goods, invisible payables and capital with residents in Iraq and Kuwait or with nationals of those countries residing abroad need to have prior authorization of the Bank of Portugal. Invisible-payable operations relate either to the transaction or transfer of funds, to and from abroad, in connection with operations such as travel, shipping services, insurance, payment of return on capital, licensing fees on exporting of patents, trade marks, models and inventions, and income and expenditures resulting from technical aid and transfers of funds in connection with, among others, current operations involving short-, medium- and long-term capital;

(b) The Finance Ministry issued instructions to the Bank of Portugal, the Insurance Institute of Portugal and the National Credit-Guarantee Commission with regard to the control of financial and economic resources. The Bank of Portugal, within its area of competence, issued instructions already referred to in item 4 (a) to all banking, financial and underwriting entities with headquarters in Portugal.

5. Sanctions

No specific sanctions have been set forth, since existing penal law and special legislation already specify sanctions. Thus, in the area of import and export embargo of supplying of products and related activities, the applicable sanctions are those specified in Decree-Law 376-A/89 of 25 October 1989. Concerning financial operations, the applicable sanctions are those specified in Decree-Law 13/90 of 8 January 1990.

6. Other

(a) There are questions regarding interpretation of the applicability of sanctions on certain types of services. Moreover, we are confronted with the problem of possible payment of indemnity to companies unable to fulfil contracts with Kuwait and Iraq;

(b) The question of application of sanctions on contracts executed prior to resolution 661 (1990) will be resolved through a new EEC regulation now being finalized;

(c) At the request of the legitimate Kuwaiti Government, the Portuguese Government has decided to transfer to the "Kuwait Investment Office" in London all rights and prerogatives for movement of Kuwaiti assets and funds in Portugal.

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THE SITUATION BETWEEN IRAQ AND
KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF IRELAND TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Ireland to the United Nations presents his compliments to the Secretary-General of the United Nations and with reference to the note dated 8 October 1990 has the honour to transmit herewith the response of the Government of Ireland to the questionnaire which the Security Council Committee addressed to all States in regard to resolution 661 (1990).

Annex

Implementation of resolution 661 (1990): questionnaire concerning national measures

Question 1

(a) The legislative basis for implementation by Ireland of Security Council resolution 661 (1990) consists of measures taken at the European Community level and at the national level. These are detailed under (b) below;

(b) The European Community has adopted the following measures:

(i) Council Regulation No. 2340/90 of 8 August 1990, prohibiting the import of all commodities originating in or coming from Iraq or Kuwait and the export of all products and commodities to Iraq and Kuwait;

(ii) Decision 90/414/ECSC of 8 August 1990, of the States members of the European Coal and Steel Community prohibiting trade with Iraq and Kuwait in commodities or products covered by the European Coal and Steel Community Treaty.

On 29 October 1990, the European Community adopted a further regulation extending and amending Council Regulation No. 2340/90 to cover non-financial services and air transport. This regulation will be directly applicable in States members of the Community.

The following measures have been adopted at the national level:

Statutory Instrument No. 213 of 1990* - Exchange Control Regulations 1990 (10 August 1990).

Statutory Instrument No. 215 of 1990* - European Communities (Trade with Iraq and Kuwait) Regulations, 1990 (16 August 1990).

Statutory Instrument No. 217 of 1990* - Restriction of Imports from Iraq and Kuwait Order (16 August 1990).

Statutory Instrument No. 215 was made in order to give full effect to Council Regulation No. 2340/90 and to provide penalties for infringement. Statutory Instrument No. 217 was made in order to give effect to European Coal and Steel Community decision 90/414 in relation to imports from Iraq and Kuwait of products covered by the European Coal and Steel Community Treaty. (Iron and steel products are already subject to export control except to States members

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* Texts of the statutory instruments may be consulted in room S-3520.

of the European Community; no licences for such exports are being issued in the case of Iraq and Kuwait.);

(c) Instructions issued by the Central Bank of Ireland, on 10 August 1990, under powers delegated to it by the Minister of Finance, under the Exchange Control Acts require that

(i) All accounts in the name of, or funds held on behalf of, residents of Iraq or Kuwait be blocked;

(ii) All transactions on these accounts, or other transactions involving residents or currencies of Iraq or Kuwait be prohibited, except with prior permission from the Central Bank.

Question 2

(a) Various government departments (e.g. the Departments of Industry and Commerce, Agriculture and Food) are responsible for import controls depending on the product concerned. The Revenue Commissioners, acting as agent for these departments, enforce the controls at the point of import;

(b) Statutory Instrument No. 215 of 1990 - European Communities (Trade with Iraq and Kuwait) Regulations, 1990 was made to prohibit trade with Iraq and Kuwait as provided for in Regulation No. 2340/90, and to provide for penalties for infringement of the prohibition. Statutory Instrument No. 217 of 1990 was made to prohibit, save under licence issued by the Minister of Industry and Commerce, the import of goods covered by the European Coal and Steel Community Treaty, from Iraq and Kuwait.

The Customs and Excise service is responsible for ensuring that full effect is given to the prohibition on the importation of goods imposed by Council Regulation No. 2340/90 and European Coal and Steel Community decision 90/414. Special instructions have been issued to all customs and excise staff throughout the country (e.g., at airports, seaports and land frontier) instructing them to prohibit the importation of all goods from Iraq and Kuwait and to exercise vigilance with regard to these controls.

Question 3

(a) Various government departments (e.g., the Departments of Industry and Commerce, Agriculture and Food) are responsible for export controls. The Revenue Commissioners, acting as agent for these departments, enforce these controls at the point of export;

(b) The customs and excise service is responsible for ensuring that the prohibition on the exportation of goods to Iraq and Kuwait is fully enforced. Special instructions have been issued to all customs and excise staff instructing them to prohibit all exports to Iraq and Kuwait, other than those specifically excluded from the scope of resolution 661 (1990), and to exercise vigilance with regard to these controls.

Question 4

(a) The Exchange Control Acts enable the Central Bank of Ireland, under powers delegated by the Minister of Finance, to restrict financial transactions with non-residents. All such transactions with Iraq and Kuwait have been prohibited, except with the prior permission of the Central Bank. Permission is not given for any transaction that would result in the direct or indirect transfer of financial or economic resources to Iraq or Kuwait;

(b) The unauthorized transfer of financial or economic resources through the banking system is prohibited under the instructions issued by the Central Bank of Ireland to financial institutions. The Customs and Excise authorities are monitoring any attempt at unauthorized transfers of funds on the part of people travelling to Iraq or Kuwait.

Question 5

(a) The Customs Acts provide for the detention, forfeiture and seizure of goods found to be in contravention of the import/export prohibition and for the imposition of penalties on persons importing or exporting goods contrary to such prohibition.

(i) Imports:

a. Section 177 of the Customs Consolidation Act, 1876 provides for the forfeiture of goods;

b. Section 202 of the Customs Consolidation Act provides for the forfeiture of conveyances made use of;

c. Section 186 of the Customs Consolidation Act provides for a penalty, on conviction, of 100 Irish pounds or treble the duty paid value of the goods, whichever is the greater;

(ii) Exports:

a. Section 177 of the Customs Consolidation Act and section 5(1) of the Customs Act, 1956 provide for forfeiture of goods;

b. Section 5(2) of the Customs Act, 1956 provides for forfeiture of conveyances made use of;

c. Section 3 of the Customs Act, 1956 provides for a penalty on conviction, of 100 Irish pounds or treble the duty paid value of the goods, whichever is the greater;

(iii) General:

a. Section 7 of the Customs and Excise (Miscellaneous Provisions) Act, 1988 provides for the detention of goods contravening the prohibition on import or export;

b. Regulation 3 of the European Communities (Trade with Iraq and Kuwait) Regulations, 1990 provides, without prejudice to any other statutory provision, for a penalty of 1,000 Irish pounds or imprisonment for a period of up to two years on conviction;

c. Offences under the Exchange Control Acts (including any breach of the instructions on the sanctions issued by the Central Bank of Ireland) are punishable, on conviction of the offender, by fines or imprisonment and, at the discretion of the court, forfeiture of the relevant currency or goods.

Question 6

(a) No problems have been encountered to date;

(b) The legislation referred to in the reply to question 1 applies equally to contracts entered into force before the date of Security Council resolution 661 (1990). Credit to a blocked account, within the State, is being permitted in respect of:

(i) Payment for goods exported from Iraq or Kuwait prior to 7 August 1990;

(ii) The honouring of any contract entered into prior to 7 August 1990 in the money, foreign exchange or securities markets (including derivatives), for the benefit of an Iraqi or Kuwaiti resident;

(c) All accounts in the name of, and all funds held on behalf of residents of Kuwait, or to which such residents are party, have been designated "Kuwaiti accounts". Transactions on these accounts are permitted only with the permission of the Central Bank of Ireland. The Central Bank will permit any transactions on these accounts, or any other financial operations, necessary to protect the assets of the legitimate Government of Kuwait and its agencies.

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THE SITUATION BETWEEN IRAQ AND
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NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT MISSION OF MALDIVES TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Maldives to the United Nations presents its compliments to the Secretary-General and, with reference to the Secretary-General's note dated 8 October 1990 regarding the questionnaire prepared by the Committee established by Security Council resolution 661 (1990), has the honour to forward herewith the answers to the questionnaire by the Government of the Republic of Maldives.

Annex

Answers of the Government of the Republic of Maldives to the questionnaire concerning the implementation of Security Council resolution 661 (1990)

1. Legislative framework

(a) The Government has temporarily banned the export and import of any goods to and from Iraq and Kuwait and has imposed strict trade sanctions against the two countries;

(b) Yes;

(c) Presidential decree.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) Ministry of Trade and Industries;

(b) Goods imported from Iraq or Kuwait will be forfeited by the customs.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) Ministry of Trade and Industries;

(b) Goods consigned to Iraq or Kuwait will be seized by the customs.

4. Control of financial or economic resources

(a) Maldives does not carry out any such dealings with Iraq or Kuwait. Therefore no specific control measures have been taken since the adoption of the resolution;

(b) Maldives does not carry out any such dealings with Iraq or Kuwait. Therefore no specific control measures have been taken since the adoption of the resolution.

5. Enforcement

Penalties of varying degree will be imposed on any party that contravenes the Presidential Directive on the trade embargo with Iraq and Kuwait.

6. Other

(a) None;

(b) None;

(c) None.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 2 NOVEMBER 1990 FROM THE PERMANENT MISSION OF FRANCE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of France to the United Nations presents its compliments to the Secretary-General and, in reply to his note, has the honour to convey to him below a list of the measures taken to date by France in implementation of Security Council resolution 661 (1990).

A. Measures concerning air transport

1. Administrative measures

The prior authorization of the Prime Minister is required for:

- flights departing from French national territory en route to Iraq or Kuwait;

- flights coming from Iraq or Kuwait making a stopover at a French airport.

Prior authorization granted through the diplomatic channel is required, in every case, for overflight of French national territory by aircraft en route to Iraq or Kuwait.

Except where the authorization of the Prime Minister has been obtained, all commercial transactions with Iraqi airlines and any use of aircraft registered in Iraq are prohibited.

Restrictions will immediately be brought to the attention of all owners and operators of aircraft, whether French or foreign.

2. Ground controls

Once prior authorization has been obtained, aircraft whose flight plan lists Iraq or Kuwait as a destination will be subject to prior inspection of the persons on board, baggage, cargo and the means of transport.

This measure does not apply to flights approved by the Committee established by resolution 661 (1990) or those organized exclusively for the purposes of the United Nations Iran-Iraq Military Observer Group.

The measure applies to aircraft making stopovers on flights from Iraq or Kuwait.

Permission for take-off will be granted only if inspection does not reveal any violation of the embargo provisions. Otherwise, impoundment of the aircraft may be ordered in pursuance of the customs code.

Foodstuffs being shipped with the approval of the sanctions committee established by resolution 661 (1990) shall not be considered a violation.

Supplies intended strictly for medical purposes, a list of which has been established by a regulation of the European Economic Community, are not covered by the embargo.

3. Air traffic control

Access to French national airspace by aircraft en route to Iraq and Kuwait is subject to regulation.

Bilateral or multilateral agreements providing for automatic authorization of overflight by aircraft of the signatory countries are suspended until further notice for flights en route to Iraq or Kuwait, irrespective of where they originated.

Overflight of French national territory by such aircraft is subject to prior approval granted through the diplomatic channel.

This approval shall entail the requirement to land at one of the French airfields designated for this purpose so that the cargo may be inspected in accordance with paragraph 4 of resolution 670 (1990). This requirement may be waived if the aircraft is to land at a foreign airport approved by France.

4. Air security

The supreme air defence authorities shall be immediately informed of any violation of the rules set out above.

These authorities will decide on the application of the measures provided for in the regulations in force.

5. Measures relating to information and international co-ordination

Provision has been made, in particular, for the International Civil Aviation Organization and users, especially airlines, to be informed of the measures prescribed; a NOTAM has been issued by the civil aviation authorities.

The Committee established by resolution 661 (1990) will be informed of any flight between French national territory and Iraq or Kuwait to which the requirement to land does not apply and of the purpose of any such flight.

B. Measures concerning shipping

Vessels flying the Iraqi flag which are found to be in French territorial waters will be subjected to a thorough check of their registry. Any vessel operated in violation of resolution 661 (1990) will be diverted to a French port where it will be detained on the basis of the procedure for seizure by customs or will be denied access to French ports or territorial waters, save where circumstances exist that make such access necessary for the protection of human life.

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THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 5 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF FINLAND TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Finland to the United Nations presents his compliments to the Secretary-General and, referring to the Secretary-General's note verbale of 8 October 1990, has the honour to enclose the replies by Finland to the questionnaire annexed to the Secretary-General's aforementioned note.

Annex

Question 1

(a) The legal basis is Act No. 659/67 concerning the Implementation of Certain Obligations incumbent upon Finland as a Member of the United Nations, which was enacted in 1967 by way of the procedure used for enactment of constitutional laws. The Act provides for the national implementation by decree of United Nations Security Council decisions, which are binding upon Member States under Article 41 of the Charter of the United Nations and necessitate legislative action. The Act moreover provides that any acts or commitments that are contrary to the Act or decrees passed pursuant to it shall not be deemed valid for purposes of enforcement or execution. Violations of the Act and any decrees issued pursuant to it are punishable by imprisonment or fines. Proceeds from such illegal acts are subject to seizure and confiscation under the general rules governing criminal proceedings;

(b) and (c) Decree No. 680/90 implementing resolution 661 (1990) is enclosed in English translation.*

Question 2

(a) The Decree has general application and binds all subjects of law, whether public or private. The Ministry of Foreign Affairs monitors developments in general and also serves as a contact point for inquiries. Other public authorities responsible for customs clearance and trade statistics, import permits, officially sponsored commercial credits and guarantees or other international financing constantly monitor developments and report thereon to the Ministry;

(b) See paragraph 2 of the Decree.

Question 3

(a) See reply to item 2 (a);

(b) See paragraph 2 of the Decree.

Question 4

See paragraph 2 of the Decree. The resolution has led to an intensified monitoring by the financial institutions, in particular the Bank of Finland, of any suspect transactions. So far there is no evidence of attempts to circumvent the prohibition as regards transfers from Finland to Iraq and the occupied territory of Kuwait. There are no Iraqi-controlled companies or assets of economic significance in Finland.

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* The text of the decree may be consulted in room S-3520.

Question 5

As noted in item 1, violations of the Decree implementing resolution 661 (1990) is a criminal offence and subject to imprisonment, fines and seizure, confiscation, etc., of proceeds of illegal acts.

Question 6

(a) In general, implementation of resolution 661 (1990) has presented very few problems, which is mainly due to the relative insignificance of Finnish trade and investment in the area. Global imports and exports to Iraq and Kuwait have amounted to 0.0 per cent of total imports in 1989 and 0.1 per cent of total exports in 1989;

Experience has shown a need to follow closely legislation and its application in other United Nations Member States in cases where Finnish law is not applicable to all aspects of contracts;

(b) The Act referred to in item 1, as well as the Decree, enable retroactive application of resolution 661 (1990) to contracts or other prohibited acts entered into but not completed at the effective date of the Decree (10 August 1990);

(c) The legitimate Government of Kuwait and its agencies abroad do not fall within the purview of the Decree. No such agencies are established in Finnish territory.

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NOTE VERBALE DATED 6 NOVEMBER 1990 FROM THE PERMANENT MISSION OF ETHIOPIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the People's Democratic Republic of Ethiopia to the United Nations presents its compliments to the Secretary-General and has the honour to forward replies to the questionnaires transmitted to us regarding Ethiopia's compliance with and implementation of Security Council resolution 661 (1990).

Annex

Note verbale from the Ministry of Foreign Affairs of Ethiopia addressed to the Secretary-General

The Ministry of Foreign Affairs of the People's Democratic Republic of Ethiopia presents its compliments to the Secretary-General and has the honour to refer to the latter's note dated 8 October 1990 whereby information has been requested on the measures being taken by Governments vis-à-vis the implementation of Security Council resolution 661 (1990).

In this regard, the Government of the People's Democratic Republic of Ethiopia wishes to offer its response herebelow to the points raised in the questionnaire.

1. Legislative framework

The appropriate State organ to be seized with the issue and responsible for taking the necessary measures has, in this regard, opted for an administrative order rather than the enactment of a specific legislation.

The administrative order was issued by the Council of Ministers, which, as stated in article 89 of the Constitution, is the highest executive and administrative organ of the People's Democratic Republic of Ethiopia.

The Council has thus issued legally binding instructions to the concerned ministries, agencies and other institutions of the People's Democratic Republic of Ethiopia to implement fully and strictly the provisions of Security Council resolution 661 (1990) of 6 August 1990 and subsequent resolutions. In this regard, it would be essential to point out the fact that, as Ethiopia had virtually no trade contact with either Iraq or Kuwait prior to the outbreak of the crisis, the set of measures to be taken were considered to be mainly precautionary and preventive. The lack of complexity in the nature of relations was, therefore, seen as one calling for measures, as would fall within the scope of an administrative order.

After the issuance of legally binding instructions to concerned government authorities by the Council of Ministers, the Ministry of Foreign Affairs of the People's Democratic Republic of Ethiopia in its note dated 22 August addressed to the Secretary-General of the United Nations gave a brief summary of the measures it envisaged to take in order to implement the provisions of the Security Council resolution.

2. Control of imports

All concerned government authorities, such as the Ministry of Transport and Communications, the Ministries of Foreign and Domestic Trade, the Ministry of Finance, as well as their subsidiary bodies, that have been made privy to the instructions of the Council of Ministers, have taken prompt action to ensure strict

implementation of Security Council resolution 661 (1990). In this regard, no problem has been encountered in ensuring full implementation of the said resolution.

3. Control of exports

The authorities mainly responsible for the control of exports are the Ministry of Foreign Trade and the Ministry of Transport and Communications. Based on the legally binding instructions of the Council of Ministers, the competent authorities, on their part, have issued circulars to all agencies and subsidiary bodies under them, laying particular emphasis on the need to abide strictly by the instructions of the Council of Ministers and prevent any activities that promote exports of any commodities to Iraq or Kuwait.

4. Control of finance or economic resources

This task falls on the Ministry of Finance and the National Bank of the People's Democratic Republic of Ethiopia. As these authorities are entrusted with the task of implementing the provisions of the Security Council resolutions relevant to their field of activity, they have shown a great deal of concern and interest in realizing the objectives set out in the legally binding instructions of the Council of Ministers.

5. Enforcement

Apart from what has been mentioned above, a mechanism has been established by the Office of the Council of Ministers designed to control any possible violation of the said Security Council resolutions. Any act that runs counter to the binding instructions of the Council of Ministers would thus be considered not only as a serious breach of government orders and as an offence against the law of the land, but would also be regarded as a deliberate attempt to undermine the interest of the international community.

The Ministry of Foreign Affairs of the People's Democratic Republic of Ethiopia wishes to assure the Secretary-General once again that the Government of the People's Democratic Republic of Ethiopia, fully aware of its obligations under the Charter of the United Nations, will maintain its principled line of action with regard to the resolution in question.

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THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE BY THE SECRETARY-GENERAL

The attached note verbale, dated 4 October 1990, was addressed to the Secretary-General by the Permanent Observer of Switzerland to the United Nations.

Annex

Note verbale dated 4 October 1990 from the Permanent Observer of Switzerland to the United Nations addressed to the Secretary-General

The Permanent Observer of Switzerland to the United Nations presents his compliments to the Secretary-General and has the honour to inform him of the following:

Switzerland has taken due note of the measures relating to an air embargo against Iraq and Kuwait which were decided on by the Security Council in resolution 670 (1990) of 25 September 1990. Switzerland will apply those measures independently, as it has been applying the sanctions imposed under Security Council resolution 661 (1990), in accordance with the Federal Council ordinance of 7 August 1990 providing for economic measures against the Republic of Iraq and the State of Kuwait. In this connection the Permanent Observer refers to his note of 22 August 1990.

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THE SITUATION BETWEEN IRAQ AND KUWAIT

LETTER DATED 30 OCTOBER FROM THE PERMANENT REPRESENTATIVE OF URUGUAY
TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

In reference to your note of 8 October 1990, I have the honour to transmit to you the enclosed reply to the questionnaire on measures taken by States to implement resolution 661 (1990).

(Signed) Ramiro PIRIZ BALLON
Ambassador

Annex I

Measures adopted by Uruguay to implement Security Council resolution 661 (1990)

Question 1

(a) The legislative basis on which Uruguay has undertaken measures to implement resolution 661 (1990) is Act 10.683 of 13 December 1945, approving the Charter of the United Nations, which was ratified on 18 December 1945.

(b) Since resolution 661 (1990) was adopted in accordance with Chapter VII of the Charter of the United Nations, there has been no need to enact any special legislative provisions. The Security Council resolution has binding force and is directly enforceable in Uruguay on the strength of the country's membership in the United Nations.

(c) The Executive Decree of 22 August 1990 was issued. A copy of the decree is enclosed.

Question 2

(a) Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait is the responsibility of the Bank of the Eastern Republic of Uruguay and the National Customs Office as the government bodies having jurisdiction over all import transactions.

(b) In accordance with resolution 661 (1990) and the Executive Decree of 22 August 1990, the Bank of the Eastern Republic of Uruguay and the National Customs Office refuse authorization for any import transactions, any activities calculated to promote imports or the trans-shipment of goods from Iraq or Kuwait or any dealings involving products or goods originating in those countries.

Question 3

(a) See answer to 2 (a).

(b) See answer to 2 (b).

Question 4

(a) The system of control for preventing transfers of financial or economic resources covered by resolution 661 (1990) is the responsibility of the Central Bank of Uruguay as the institution oversees all financial intermediation activities in the country before, during and after the fact (art. 15 of Decree-Law 15.322 on financial intermediation).

(b) Inasmuch as the Central Bank oversees and sets guidelines for financial activities, monitoring compliance with the laws and decrees governing such activities, it also monitors compliance with the Executive Decree of 22 August 1990 and resolution 661 (1990), which constitute the provisions of positive law governing financial intermediation activities.

Question 5

The penalties which already exist under our national legal system are used to prevent breaches of resolution 661 (1990). These penalties can be administrative, customs or penal and vary according to the nature of the offense and the status of the offender.

In this connection the following cases might be mentioned:

(a) Since, in accordance with the provisions of the Decree of 22 August 1990, authorization for the exportation or importation of goods or assets may not be granted by the authorities, the only way such goods or assets can be brought into or taken out of the country, imported, exported or trans-shipped is clandestinely. Such clandestine activity would constitute the customs offence of smuggling (art. 253 of Act 13.318, as amended and revised); stating that goods were something other than what they really were (for example, medicine other than some other goods), would constitute the customs offence of false declaration (art. 246 of the same Act).

The penalties for the customs offence of smuggling are, in general, confiscation of the merchandise or goods (primary confiscation), a fine equal to 10 per cent of their commercial value, and payment of the applicable taxes, court fees and costs for the legal proceedings and twice the applicable import duties. In some cases, the means of transport used may also be confiscated (secondary confiscation).

Moreover, under article 257 of the Penal Code, a person who commits any of the acts covered by the Decree-Law of 26 March 1877 and Act 13.318 is guilty of the offense of smuggling. In such a case, in addition to customs proceedings, criminal proceedings are initiated and the appropriate penalty is imposed.

(b) In order to prevent the transfer of funds required for the exportation, importation or trans-shipment of products and goods, once penal proceedings have been initiated for the offence of smuggling, apart from the audits carried out by the Central Bank of Uruguay, the judge may, on the basis of an order setting forth the reasons for his decision, require the disclosure to the court of any funds or securities that the offender may have in a current or deposit account or be holding in any other form.

(c) The penalties for any financial intermediation activity which violates the Executive Decree of 22 August 1990 and resolution 661 (1990) are those prescribed in article 20 of Decree-Law 15.322 on financial intermediation for any private individual who violates the laws and decrees governing activity of this kind.

These penalties are as follows:

(i) Probation.

(ii) Reprimand.

(iii) Fines of up to 50 per cent of the net minimum required capital established for the bank's operations.

(iv) Government intervention in the management of the bank, which may be coupled with total or partial suspension of the bank officials.

(v) Total or partial suspension of the bank's operations for a specified time-period.

(vi) Revocation of the bank's operating permit.

Measures (iv) and (v) may be combined. Any of the other measures may be combined with measure (iii).

Measures (i) and (v) are applied by the Central Bank of Uruguay. Measure (vi) is applied by the executive branch, on the advice of the Central Bank.

Question 6

(b) There has not been any need to enact legislative measures for the reasons given in the answer to 1 (b).

The Executive Decree of 22 August 1990 was issued.

(c) No assets of the legitimate Government of Kuwait or its agencies are known to exist in the national territory. Should any such assets come to light they would be protected under the Decree of 22 August 1990.

Attachment

Executive Decree of 22 August 1990

Ministry of the Interior

Ministry of Foreign Affairs

Ministry of Economic Affairs and Finance

Ministry of Defence

Ministry of Education and Culture

Ministry of Transport and Public Works

Ministry of Industry and Energy

Ministry of Labour and Social Security

Ministry of Public Health

Ministry of Stockraising, Agriculture and Fisheries

Ministry of Tourism

Ministry of Housing, Land Management and Environment

Montevideo, 22 August 1990

BEARING IN MIND United Nations Security Council resolution 661 (1990) of 6 August 1990 imposing sanctions against the Government of Iraq;

CONSIDERING that the above-mentioned resolution, adopted under Chapter VII of the Charter of the United Nations, is binding on all States Members of the Organization in accordance with the provisions of Article 25 of the Charter;

HAVING REGARD TO THE FACT THAT Uruguay, as a Member of the United Nations, whose Charter was approved by Act No. 10.463 of 13 December 1945 and ratified on 18 December of that same year, is obliged to enforce the resolution within its sphere of competence;

THE PRESIDENT OF THE REPUBLIC

ACTING IN THE COUNCIL OF MINISTERS,

HEREBY DECREES:

Article 1. The competent authorities shall take the necessary measures to ensure the effective implementation of United Nations Security Council resolution 661 (1990) of 6 August 1990, which is annexed to this Decree.

Article 2. The activities referred to in paragraphs 3 and 4 of the above-mentioned resolution are prohibited within the sphere of Uruguay's national jurisdiction for as long as the resolution remains in force.

Article 3. Public notice shall be given of this decree, etc.

(Signed) LACALLE HERRERA

(Followed by signatures)

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THE SITUATION BETWEEN IRAQ AND
KUWAIT

NOTE VERBALE DATED 6 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF INDONESIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Republic of Indonesia to the United Nations presents his compliments to the Secretary-General and, with reference to the former's note verbale dated 8 October 1990 concerning the questionnaire of the Security Council Committee established by resolution 661 (1990) on national measures taken in implementing resolution 661 (1990), has the honour to transmit herewith the information as requested.

Annex

Measures taken by the Indonesian Government concerning the implementation of resolution 661 (1990)

Question 1

The legislative basis upon which Indonesia has taken measures to implement Security Council resolution 661 (1990) is contained in the statements by various Indonesian ministers and has been enacted as a circular letter of the Ministry of Trade to the various ministries, agencies, chambers of commerce and industry and other relevant private business sectors.

Question 2

(a) The Ministry of Trade is the responsible authority for controlling the imports of goods and services from Iraq and Kuwait;

(b) The Ministry of Trade has issued various directives to the relevant ministries and agencies as well as to the private sector in order to prohibit the importation of goods and services from Iraq and Kuwait, either directly or through third countries in compliance with resolution 661 (1990).

Question 3

(a) The Ministry of Trade is also the responsible authority for controlling the exports of goods and services to Iraq and Kuwait as required by resolution 661 (1990);

(b) The Ministry of Trade has issued various directives to the relevant ministries and agencies as well as to the private sector in order to prohibit the exportation of goods and services to Iraq and Kuwait, either directly or through third countries, in compliance with resolution 661 (1990).

Question 4

Bank Indonesia (the Indonesian central bank) and the various Indonesian ministries concerned have taken the necessary steps to prevent the flow of funds to Iraq and Kuwait and have also protected Kuwait's assets with relation to their investment.

Question 5

The types of enforcement applied by the Indonesian Government against breaches of resolution 661 (1990) are in accordance with existing domestic laws and regulations.

Question 6

(a) The full implementation of resolution 661 (1990) has adversely affected the promotion of Indonesian non-oil and gas exports;

(b) The Indonesian Government has also issued directives to cancel all business contracts with Iraq that entered into force prior to the adoption of the resolution;

(c) For the purpose of protecting the assets of the legitimate Government of Kuwait, the Indonesian Government is compiling an inventory of those assets, in particular Kuwait's investments in Indonesia.

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LETTER DATED 8 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF ECUADOR TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

With reference to your note of 8 October 1990, I have the honour to transmit herewith the reply of the Government of Ecuador to the questionnaire prepared by the Committee established by resolution 661 (1990).

(Signed) José AYALA LASSO
Permanent Representative

Annex

Implementation of Security Council resolution 661 (1990): Reply of Ecuador to the questionnaire on measures adopted by States Members of the United Nations

1. Legislative framework

Q. What is the legislative basis on which your country has undertaken measures to implement Security Council resolution 661 (1990)?

A. Ecuador, as a Member of the United Nations, recognizes the Charter of the Organization as the law of the Republic and therefore complies with the provisions of Article 25 of that instrument, whereby the Members undertake to "accept and carry out the decisions of the Security Council".

Q. Has there been any specific legislation enacted pursuant to Security Council resolution 661 (1990)?

A. In view of the small scale of its trade with Iraq and Kuwait, the Government of Ecuador deemed it sufficient for the heads of the public bodies having jurisdiction over the implementation of the measures envisaged in resolution 661 (1990) to issue the relevant administrative instructions for the implementation of the provisions in question.

Q. What types of administrative orders, decrees, etc., has your country passed pursuant to the relevant laws?

A. As indicated in the previous paragraph, before any official notification from the Ministry of Foreign Affairs, the Chairman of the Currency Board, the Minister of Finance, the Minister of Industry and Trade, the Managing Director of the Central Bank, the Superintendent of Banking and the Superintendent of Companies issued internal administrative instructions with a view to ensuring the timely implementation of the measures taken against Iraq.

Apart from this, the National Government has had no notice of any commercial activities entered into with Iraq and Kuwait by the public or private sectors of Ecuador since 6 August 1990.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

Q. Which authorities in your country are responsible for implementing the control of imports or activities as required by Security Council resolution 661 (1990)?

A. The Currency Board, the Ministry of Finance, the Ministry of Industry and Trade and the Central Bank of Ecuador.

Q. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by imports of items or activities covered by it?

A. It has not been thought necessary to issue any further provisions in addition to the administrative instructions referred to above, the effects of which are deemed adequate for the purpose in view.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

Q. Which authorities in your country are responsible for implementing the control of exports or activities as required by Security Council resolution 661 (1990)?

A. The Central Bank is responsible for issuing all export permits with respect to goods originating in Ecuador.

Q. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by exports of items or activities covered by it?

A. Having no export trade of that nature, it has not been necessary to take any steps additional to those administrative measures already mentioned.

4. Control of financial or economic resources

Q. What system of control exists in your country to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990)?

A. The Central Bank of Ecuador and the Office of the Superintendent of Banking control the operations of the national financial system; the Office of the Superintendent of Companies monitors stock-market activities. By virtue of their powers, these bodies are also entrusted with the monitoring and implementation of measures relating to the transfer of financial and economic resources referred to in Security Council resolution 661 (1990).

Q. What specific measures has your country taken so as to prevent unauthorized movements of funds in contravention of Security Council resolution 661 (1990)?

A. The Central Bank of Ecuador, the Office of the Superintendent of Banking and the Office of the Superintendent of Companies have thus far not detected within the national territory any movement of financial or economic resources belonging to Iraq or Kuwait. Accordingly, it has not been necessary to impose limitations in that regard. In any case, the aforementioned public institutions are fully aware of the provisions of Security Council resolution 661 (1990) relating to the transfer of financial and economic resources and, if necessary, will ensure full compliance with the resolution.

5. Enforcement

Q. What types of enforcement (penalties, seizures, forfeitures, etc.) does your country apply so as to prevent breaches of Security Council resolution 661 (1990) by individuals and companies in your country?

A. No specific enforcement measures have been adopted pursuant to Security Council resolution 661 (1990). Nevertheless, violations of or intent to violate the regulations of the Currency Board, the Ministry of Finance, the Ministry of Industry and Trade, the Central Bank, the Office of the Superintendent of Banking and the Office of the Superintendent of Companies may result in civil, criminal, administrative or fiscal sanctions of varying magnitude, depending on the infraction and the circumstance under which it was committed. Each case is decided by the State courts, in accordance with the substantive and procedural laws of the country.

6. Other

Q. What problems has your country confronted in ensuring full national implementation of Security Council resolution 661 (1990)?

A. There have been no problems. The need has not arisen for the Ecuadorian State to exercise its powers granted by law in order to ensure compliance with Security Council resolution 661 (1990).

Q. What legislative or other measures has your country taken so as to implement Security Council resolution 661 (1990) with regard to contracts entered into or licences granted before the date of the resolution?

A. The heads of the Currency Board, the Ministry of Finance, the Ministry of Industry and Trade, the Central Bank, the Office of the Superintendent of Banking, and the Office of the Superintendent of Companies adopted the relevant administrative measures with respect to the contracts entered into or licences granted before 6 August 1990 at the same time that they issued their instructions regarding the other measures prescribed by Security Council resolution 661 (1990).

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THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 9 NOVEMBER 1990 FROM THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Socialist Federal Republic of Yugoslavia to the United Nations presents its compliments to the Secretary-General and, in reply to his note of 8 October 1990, has the honour to enclose herewith the reply of the Government of the Socialist Federal Republic of Yugoslavia to the questionnaire concerning national measures on the implementation of resolution 661 (1990) of the Security Council.

Annex

The implementation of resolution 661 (1990): reply of the Government of Yugoslavia to the questionnaire concerning national measures

The Government of the Socialist Federal Republic of Yugoslavia sent to the Secretary-General a reply regarding the implementation of Security Council resolution 661 (1990) on economic sanctions against Iraq and Kuwait on 23 August 1990. Pursuant to the measures adopted, all economic and other activities of Yugoslav nationals in Iraq and Kuwait have been discontinued, as required by paragraphs 3 and 4 of resolution 661 (1990). Accordingly, out of a total of 7,500 Yugoslav citizens who worked in Iraq and Kuwait, only 150 remain there to protect the property of Yugoslav companies, the said number including Yugoslav embassy personnel at Baghdad.

1. Legislative framework

The Yugoslav Government's decisions of 9 and 16 August 1990:

(a) Stopping shipment of all goods and the use of Yugoslav transport to supply Iraq and Kuwait with third country products;

(b) Temporarily suspending imports from Iraq;

(c) Ceasing deliveries of arms and military equipment to Iraq during the implementation of sanctions under resolution 661 (1990);

(d) Ordering the departure of Yugoslav workers carrying out building contracts in Iraq and Kuwait;

(e) Freezing Iraqi assets in Yugoslavia,

constitute the legislative basis for implementing Security Council resolution 661 (1990). These measures have been adopted by the Yugoslav Government in view of the need to act promptly and bearing in mind that setting in motion the procedure to enact special legislation, as required by the relevant Yugoslav regulations in force, would take several months, thus slowing down considerably the implementation of Security Council resolution 661 (1990) by the Yugoslav agencies and institutions concerned.

The decisions of the Yugoslav Government include all areas covered by resolution 661 (1990) concerning economic sanctions against Iraq and Kuwait.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

All institutions competent according to the law have been engaged in implementing control of such imports and exports. To that end, the above-mentioned government decisions have been transmitted to the Federal Secretariat for Foreign Economic Relations; the Federal Secretariat for Foreign Affairs; the Federal Secretariat for National Defence; the Federal Secretariat for Energy and Industry; the Federal Secretariat for Labour, Health, Veterans' Affairs and Welfare Policy; the Federal Secretariat for Transport and Communications; the Federal Secretariat for Development; the National Bank of Yugoslavia; the Federal Customs Administration; the Federal Market Inspectorate; the Federal Foreign Exchange Inspectorate; and the Federal Accounting Office, which all have authority in their own field under the law to monitor the implementation of the above-mentioned government decisions relating to Security Council resolution 661 (1990).

4. Control of financial or economic resources

In this field is the responsibility of the National Bank of Yugoslavia, which takes action in compliance with the Government's decisions.

5. Enforcement

Enforcement applied to prevent breaches is regulated by the relevant panel provisions embodied in the Law on Foreign Trade Operations, the Law on Foreign Exchange Transactions and in the Law on the National Bank of Yugoslavia and on the Uniform Monetary Operations of the National Banks of the Republics and the National Banks of the Autonomous Provinces.

To date, no cases of violation of the measures taken by the Government of Yugoslavia have been reported.

6. Other

Owing to the very extensive economic relations and the fact that Yugoslav companies have entered into contracts in Iraq, especially building contracts, the Yugoslav side has sustained heavy losses as a result of the application of sanctions and the suspension of all relations with Iraq. These losses have had a considerable negative impact on the ongoing process of economic reform in Yugoslavia and the measures taken to consolidate the national economy. Therefore, it will be necessary to reorient Yugoslav companies to look for business deals in third countries. This will require additional financial resources over and above the figures presented to the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait in connection with the losses suffered by the Yugoslav economy.

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S/AC.25/1990/38
13 November 1990

ORIGINAL: ENGLISH

SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

LETTER DATED 12 NOVEMBER 1990 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE ISLAMIC REPUBLIC OF IRAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from my Government, I have the honour to transmit to you the reply of the Government of the Islamic Republic of Iran to the questionnaire attached to your note of 8 October 1990.

(Signed) Mohammed Javad ZARIF
Ambassador
Deputy Permanent Representative

Annex

Implementation of resolution 661 (1990); a questionnaire concerning national measures: response of the Islamic Republic of Iran

Question 1

(a) The measures taken to implement Security Council resolution 661 (1990) are based on the Constitution of the Islamic Republic of Iran, which rejects aggression committed by any country against another;

(b) No specific legislation has been required pursuant to resolution 661 (1990);

(c) The Supreme National Security Council of the Islamic Republic of Iran has issued executive orders in accordance with the Constitution of the Islamic Republic of Iran to the Ministry of Interior and the armed and police forces to implement fully the relevant provisions of Security Council resolution 661 (1990).

Question 2

(a) The Ministry of Interior, the Customs Office and the armed and police forces are responsible for implementing the control of imports or activities as required by resolution 661 (1990);

(b) Executive orders of the Supreme National Security Council prohibit the import of any product originating in or coming from Iraq and Kuwait. In order to prevent any breaches of resolution 661 (1990), effective supervision is conducted to prevent smuggling and to seize smuggled goods as necessary.

Question 3

(a) The Ministry of Interior, the Customs Office and the armed and police forces are responsible for implementing the control of exports or activities as required by resolution 661 (1990);

(b) Executive orders of the Supreme National Security Council prohibit the export to Iraq and Kuwait of any product originating in or coming from the Islamic Republic of Iran. In order to prevent breaches of resolution 661 (1990), effective supervision is conducted to prevent smuggling and to seize smuggled goods as necessary.

Question 4

(a) Necessary instructions have been given to banks and the armed and police forces in order to prevent transfers of financial or economic resources covered by resolution 661 (1990);

(b) All financial transfers between the Islamic Republic of Iran and Iraq have ceased since the outbreak of hostility between the two countries. Executive orders of the Supreme National Security Council prevent any movement of funds in contravention of resolution 661 (1990) to Kuwait.

Question 5

Smuggled products will be seized and offenders will be punished.

Question 6

(a) The Islamic Republic of Iran has not confronted significant problems other than attempts to smuggle some foodstuffs to Iraq, which have been effectively prevented;

(b) All economic agreements between the Islamic Republic of Iran and Iraq were either cancelled or suspended due to the existence of hostility between the two countries and they have not been resumed. In the case of Kuwait, all measures mentioned in response to question 1 apply to this question;

(c) Special arrangements have been made by the Government of the Islamic Republic of Iran to protect these assets.

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Security Council

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S/AC.25/1990/39
13 November 1990
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SECURITY COUNCIL COMMITTEE ESTABLISHED
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THE SITUATION BETWEEN IRAQ AND KUWAIT

LETTER DATED 12 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE
OF MAURITANIA TO THE UNITED NATIONS ADDRESSED TO THE
SECRETARY-GENERAL

Further to our note verbale of 29 October 1990 (S/AC.25/1990/20), I have the honour to transmit to you below the documents* referred to in that note and in the response of my Government to the questionnaire on implementation of Security Council resolution 661 (1990). They are the following:

1. Legislation:

(a) Act 73-118 of 30 May 1973 establishing the Central Bank of Mauritania and laying down its articles of association;

(b) Act 74-022 of 24 January 1974 establishing the regulations governing financial transactions with foreign countries and their recording for statistical purposes;

2. Decree 89-062/PG/MCT/MEF governing the granting of import-export licences and import and export procedures.

I should be obliged if you would transmit the information contained in these documents to the members of the Security Council Committee responsible for studying our request.

(Signed) Mohamedou OULD MOHAMED MAHMOUD
Permanent Representative

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* Copies of these documents may be examined in room S-3520.

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UNITED
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Security Council

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S/AC.25/1990/40
14 November 1990

ORIGINAL: ENGLISH

SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 12 NOVEMBER 1990 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF INDIA TO THE UNITED NATIONS ADDRESSED
TO THE SECRETARY-GENERAL

The Acting Permanent Representative of India to the United Nations presents his compliments to the Secretary-General and has the honour to refer to the Secretary-General's note dated 8 October 1990 forwarding a questionnaire seeking further information on measures taken for the implementation of Security Council resolution 661 (1990).

As regards control of trade with Iraq and Kuwait in terms of paragraph 3 (c) of resolution 661 (1990), the Ministry of Commerce of the Government of India issued the following three administrative orders imposing a complete ban on trade, including by post, with Iraq and Kuwait, except supplies for medical purposes and foodstuffs in humanitarian circumstances, requests for which are to be submitted and considered in accordance with a prescribed procedure:

(a) Government of India, Ministry of Commerce, Import Trade Control, public notice No. 68-ITC(PN)/90-93, dated 5 October 1990, published in the Gazette of India, extraordinary part I, section I;

(b) Government of India, Ministry of Commerce, Import Trade Control, order No. 41/90-93, dated 5 October 1990, published in the Gazette of India, extraordinary part II, section 3, subsection (ii);

(c) Government of India, Ministry of Commerce, Export Trade Control, public notice No. 50-ETC(PN)/90, dated 5 October 1990, published in the Gazette of India, extraordinary part I, section I.

As regards any remittances to Iraq or Kuwait or any remittances on account of the Government of Iraq or any of its agencies in Iraq or Kuwait or on account of its nationals and any transactions with any persons, firms or banks resident in

Iraq or Kuwait or with Iraqi nationals, in terms of paragraph 4 of resolution 661 (1990), the Reserve Bank of India, Exchange Control Department, issued letter No. 805/2321.90, dated 11 October 1990, addressed to heads of international divisions/foreign exchange departments of all authorized dealers, informing them of the ban on remittances and transactions as described above.

The enforcement of the above orders is being made in accordance with established laws and rules and regulations in effect for trade and foreign exchange control purposes.

The above information is in addition to an earlier communication on the implementation of resolution 661 (1990), which was reproduced as document S/21602 of 23 August 1990.

As regards economic, commercial and financial problems faced by India arising from the implementation of resolution 661 (1990), reference may be made to the Permanent Representative's letter dated 5 September 1990 addressed to the President of the Security Council and reproduced as document S/21711, dated 5 September 1990, as well as the letter dated 5 November 1990 from the Deputy Permanent Representative of India, addressed to the Chairman, Working Group of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, which updated the memorandum on the economic, commercial and financial impact on India resulting from restrictions on economic relations with Iraq and Kuwait.

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SECURITY COUNCIL COMMITTEE ESTABLISHED BY
RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 9 NOVEMBER 1990 FROM THE PERMANENT MISSION OF POLAND TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Poland to the United Nations presents its compliments to the Secretary-General and, referring to his note, has the honour to convey the reply of the Polish Government to the questionnaire on the national measures relating to the implementation of Security Council resolution 661 (1990).

Annex

Reply of the Polish Government to the questionnaire on the national measures relating to the implementation of Security Council resolution 661 (1990)

1. Legislative framework

(a) (i) The Polish Customs Law of 28 December 1989 (Journal of Laws No. 75, item 445 of 1989);

(ii) The Polish Law on Foreign Exchange Regulations and the Penal-Fiscal Act of 26 October 1971;

(b) No new legislation has been enacted;

(c) (i) The Council of Ministers Regulation of 13 August 1990 concerning the temporary ban on trade with Iraq and Kuwait;

(ii) The resolution of the Council of Ministers of the Republic of Poland dated 13 August 1990 on the implementation by the organs of State administration of Security Council resolution 661 (1990) of 6 August 1990 concerning the armed conflict between Iraq and Kuwait.

2. Control of imports or activities that would promote or are calculated to promote imports or trans-shipments of goods from Iraq and Kuwait

(a) Ministers, organs of State administration (heads of central organs of State administration) and governors of the provinces (voivodes) are under the obligation to undertake, within the scope of their competence, all necessary action aimed at ensuring the implementation of Security Council resolution 661 (1990). Supervision of the implementation of the resolution is vested with the Minister of Foreign Economic Relations in consultation with the Minister for Foreign Affairs;

(b) A ban was instituted on:

(i) The introduction into Poland of any commodities or products originating in, or coming from, Iraq or Kuwait;

(ii) The export from Poland to the said countries of any commodities or products originating in, or coming from, Poland.

Excluded from the application of the above measures are:

(i) Commodities and products intended strictly for medical purposes as well as foodstuffs supplied out of humanitarian considerations;

(ii) Commodities or products that originate in, or come from, Iraq or Kuwait and were exported before 7 August 1990.

Positions 30 and 44 were deleted from annex 5 of the Council of Ministers Regulation of 30 December 1989 regarding customs duties on commodities imported from abroad (Journal of Laws No. 75, item 448).

3. Control of exports or activities that would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) The same authorities as those named in paragraph 2 (a) above are responsible for implementing the control of such exports or activities as required by Security Council resolution 661 (1990);

(b) The same measures as those specified in paragraph 2 (b) above apply.

4. Control of financial or economic resources

(a) There is an effective system of control to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990) under the relevant provisions of the Polish Law on Foreign Exchange Regulations and the Penal-Fiscal Act of 26 October 1971;

(b) No specific legislative measures were necessary as the Minister for Finance is under the obligation to undertake all necessary action aimed at ensuring the implementation of Security Council resolution 661 (1990).

5. Enforcement

In the case of breaches of Security Council resolution 661 (1990) by individuals and companies, enforcement provided by the appropriate regulations of Polish Law will be applied.

In the specific case of unauthorized import or export of goods, the enforcement foreseen in the Polish Customs Law will be applied. As regards unauthorized movement of funds, penalties will be administered in accordance with the relevant provisions of the Polish Law on Foreign Exchange Regulations and the Penal-Fiscal Act of 26 October 1971.

6. Other

(a) In a memorandum dated 20 September 1990 the Government of Poland informed the Security Council Committee that the implementation of resolution 661 (1990) had serious social and economic implications for Poland, as Iraq had for many years been Poland's major trading partner among the Near and Middle Eastern countries. These implications are particularly painful since Poland belongs to the heavily indebted countries. The losses incurred by Poland have a highly negative impact on the process of fundamental economic change that is currently taking place in this country. According to latest calculations, Poland estimates its losses at approximately $US 2.9 billion;

The Government of Poland is confident that the Security Council will make the necessary recommendations enabling Poland to overcome these difficulties;

(b) See items 1, 2 and 3;

(c) No specific measures to protect the assets of the legitimate Government of Kuwait were necessary owing to the absence of any such assets in Poland.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 13 NOVEMBER 1990 FROM THE PERMANENT
REPRESENTATIVE OF THE NETHERLANDS TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Kingdom of the Netherlands to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the latter's Note dated 8 October 1990, has the honour to transmit herewith the response of the Government of the Kingdom of the Netherlands to the questionnaire which the Security Council Committee addressed to all States in regard to the implementation of resolution 661 (1990).

The Permanent Representative of the Kingdom of the Netherlands to the United Nations would be grateful if the Secretary-General of the United Nations could arrange to have the annex to this Note circulated as a document of the Security Council Committee established by resolution 661 (1990).

Annex

Implementation of resolution 661 (1990): Answers to questionnaire concerning national measures

A. The Netherlands (the Kingdom in Europe)

1. Legislative framework

a. What is the legislative basis on which your country has undertaken measures to implement Security Council resolution 661 (1990)?

At European Community level:

- EEC Regulations

- ECSC Decisions.

At national level:

- "In- en uitvoerwet" (Import and Export Act)

- "Sanctiewet 1977" (Sanctions Act 1977)

b. Has there been any specific legislation enacted pursuant to Security Council resolution 661 (1990)?

Measures taken at European Community level:

- EEC Regulation 2340/90 of 8 August 1990

- ECSC Decision 414/90 of 8 August 1990.

By EEC Regulation No. 2340/90 of the Council of Ministers of 8 August 1990, the EEC adopted measures prohibiting the import of all commodities and products originating in or coming from Iraq or Kuwait and the export of all products and commodities to Iraq and Kuwait.

By Decision 414/90/ECSC of 8 August 1990, the Member States of the European Coal and Steel Community banned trade with Iraq and Kuwait in commodities or products covered by the ECSC Treaty.

Measures taken at national level:

No new legislation has been enacted.

c. What types of administrative orders, decrees, etc. has your country passed pursuant to the relevant laws?

Measures at national level:

- "Sanctiebeschikking betalingsverkeer en financiele dienstenverkeer Koeweit 1990, d.d. 3 augustus 1990, Staatscourant 149."

- "Sanctiebeschikking betalingsverkeer en financiele dienstenverkeer Irak 1990, d.d. 6 augustus 1990, Staatscourant 150."

- "Invoerregeling Olie Irak-Koeweit, d.d. 6 augustus 1990, Staatscourant 150."

- "In- en uitvoerregeling Irak-Koeweit 1990, d.d. 10 augustus 1990, Staatscourant 154."

- "Sanctiebeschikking handelsverkeer, luchtvaart en scheepvaart Irak en Koeweit 1990, d.d. 10 augustus 1990, Staatscourant 154."

- "Sanctiebeschikking betalingsverkeer en financiele dienstenverkeer Irak en Koeweit 1990 - III, d.d. 10 augustus 1990, Staatscourant 154."

Explanatory Note on the National Measures

a. Payments and financial services

The order of 3 August 1990 bans all transactions involving the transfer of funds of the State of Kuwait deposited in financial institutions in the Netherlands to persons or (public and other) bodies in Kuwait. The order of 6 August 1990 contains similar measures with regard to Iraq.

b. Imports and exports of commodities and products

The regulation of 10 August 1990 prohibits all imports of commodities and products originating in Iraq or the State of Kuwait and all exports of goods to Iraq or the State of Kuwait. The regulation of 6 August 1990 concerning imports of oil from Iraq and the State of Kuwait was revoked with the entry into force of this regulation.

c. Air transport and shipping

The order of 10 August 1990 prohibits any activity involving air transport or shipping for the purpose of promoting the export to and the import of products and commodities from Iraq and the State of Kuwait.

d. Payments and financial services related to trading

The order of 10 August 1990 prohibits any payment or other financial service directly or indirectly related to the activities mentioned under b. and c., as well as other payments or the provision of financial services to Iraq or the State of Kuwait or to persons or (public and other) bodies in Iraq or the State of Kuwait.

2. Control of imports or activities which would promote or are calculated to promote imports or transshipment of goods from Iraq and Kuwait

a. Which authorities in your country are responsible for implementing the control of imports or activities as required by Security Council resolution 661 (1990)?

The Ministries of Foreign Affairs, Economic Affairs, Finance, Agriculture, Nature Management and Fisheries, and Transport and Public Works. In addition, the Economic Control Agency (ECD) is responsible for monitoring compliance with the sanction orders and the regulation on imports and exports inside the Netherlands. The commanders of Dutch naval vessels are responsible for ensuring such compliance outside the Netherlands. Both also have powers to investigate. The criminal justice authorities ultimately decide whether a breach has been committed.

b. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by imports of items or activities covered by it?

See 1c.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

a. Which authorities in your country are responsible for implementing the control of exports or activities as required by Security Council resolution 661 (1990)?

Same authorities as mentioned under 2a.

b. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by exports of items or activities covered by it?

See 1c.

4. Control of financial or economic resources

a. What system of control exists in your country to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990)?

By a ministerial Decree of 24 August 1990 ("Beschikking aanwijzing van ambtenaren van toezicht", published in the Nederlandse Staatscourant of 28 August 1990), the officials of the Economic Control Agency have been charged with the supervision of all measures concerning Iraq and Kuwait. Apart from this, the normal procedures of criminal investigation are applicable.

b. What specific measures has your country taken so as to prevent unauthorized movements of funds in contravention of Security Council resolution 661 (1990)?

The orders relating to payments and financial services mentioned in 1c.

5. Enforcement

What types of enforcement (penalties, seizures, forfeitures, etc.) does your country apply to prevent breaches of Security Council resolution 661 (1990) by individuals and companies in your country?

Non-compliance with the provisions of sanctions is punishable under the "Wet op de economische delicten" (Economic Offences Act). In conjunction with the Criminal Code, this Act provides for a term of imprisonment not exceeding two years and a fine of up to NLG 25,000. In the case of legal persons a fine of up to NLG 100,000 may be imposed.

6. Other

a. What problems has your country confronted in ensuring full national implementation of Security Council resolution 661 (1990)?

Other than a number of questions of interpretation regarding resolution 661 (1990), none.

b. What legislative or other measures has your country taken so as to implement Security Council resolution 661 (1990) with regard to contracts entered into or licences granted before the date of the resolution?

The sanctions mentioned under 1 apply with effect from the date of publication in the Official Journal of the European Communities (EC sanctions) and the Netherlands Government Gazette (national sanctions), notwithstanding contracts previously entered into. These sanctions do not affect imports into the territory of the

European Community of products and commodities originating in Iraq or Kuwait that had been exported from Iraq or Kuwait prior to 7 August 1990.

c. What specific measures has your country taken to protect the assets of the legitimate Government of Kuwait and its agencies in accordance with paragraph 9 (a) of Security Council resolution 661 (1990)?

Sanctions at the European Community level and at national level apply to all Kuwaiti natural or legal persons. However, companies and agencies that remain under the control of the legitimate Government of Kuwait can request exemptions. Even then, the companies and agencies in question remain subject to certain limitations resulting from the sanctions mentioned above.

B. Netherlands Antilles

1a. "Landsverordening Deviezenverkeer" (PB 1981, No. 67) (Ordinance on Currency Dealings);

"Landsverordening In- en Uitvoer" (PB 1968, No. 42) (Ordinance on Imports and Exports).

b. No.

c. Governor's Decree of 10 August 1990 containing general measures implementing article 4, paragraph 1 of the Ordinance on Currency Dealings (Governor's Decree concerning the Freezing of Kuwaiti and Iraqi Assets, Official Gazette 1990, No. 57);

Ministerial Order of 10 August 1990 implementing article 6 of the Ordinance on Imports and Exports (Official Gazette 1990, No. 58);

Governor's Decree of 13 September 1990 containing general measures implementing article 4, paragraph 1 of the Ordinance on Currency Dealings (Governor's Decree concerning the Freezing of Kuwaiti and Iraqi Assets - II, Official Gazette 1990, No. 78);

Governor's Decree of 14 September 1990 containing general measures implementing article 4 of the Ordinance on Imports and Exports (replacing the Ministerial Order of 10 August 1990, Official Gazette 1990, No. 79);

2a. The Ministers of General Affairs, of Trade, Industry and Manpower, and of Finance (Customs) have responsibility with regard to sanctions. The customs authorities, if necessary assisted by the Royal Netherlands Navy, are responsible for the monitoring of compliance with the sanctions.

b. See 1c.

3. As mentioned under 2.

4a. The Central Bank has made it obligatory for all banks, trusts and notarial offices to provide it with detailed statements of all Kuwaiti and Iraqi funds and/or assets placed with them or managed by them either wholly or in part.

b. The Central Bank is exercising continuous supervision.

5a. Under article 28 of the Ordinance on Currency Dealings, breaches of resolution 661 are regarded as:

- indictable offences if committed wilfully, and are punishable by a maximum of two years' imprisonment and/or a fine of NLG 25,000;

- non-indictable offences if committed unwilfully, and are punishable by a maximum of six months detention and/or a fine of NLG 10,000.

b. Under article 14 of the Ordinance on Imports and Exports, breaches of the resolution are regarded as:

- indictable offences if committed wilfully, and are punishable by a maximum of one year's imprisonment or a fine of NLG 10,000;

- non-indictable offences if committed unwilfully, and are punishable by a maximum of four weeks' detention or a fine of NLG 3,000.

6a. None.

b. The export of any commodity from the Netherlands Antilles intended for import to or transshipment via Iraq or Kuwait is prohibited. The same applies to the import to or export from the Netherlands Antilles of any commodity originating from Iraq or Kuwait, unless it can be shown that it was paid for and loaded before 7 August 1990 and does not comprise weapons or ammunition.

c. Assets of the Government of Kuwait held by banks in the Netherlands Antilles are protected by the Governor's Decrees On the Freezing of Kuwait and Iraqi Assets mentioned under 1c. above. The Minister of Finance may also grant exemptions from the prohibitions laid down in the Governor's Decree.

c. Aruba

1a. "Landsverordening In- en Uitvoer" (AB 1989, No. GT 120) (Ordinance on Imports and Exports).

"Landsverordening Deviezenverkeer" (AB 1990, No. GT 6) (Ordinance on Currency Dealings).

b. No.

c. "Ministeriele regeling economische sancties Irak en Koeweit" (AB 1990 No. 37, 10 August 1990) (Ministerial regulation on economic sanctions concerning Iraq and Kuwait).

"Landsbesluit financiele sancties Irak en Koeweit" (AB 1990 No. 38, 10 August 1990) (Governor's Decree on economic sanctions concerning Iraq and Kuwait).

2a. The following persons/bodies have responsibility with regard to economic sanctions:

- The Cabinet/Minister for Economic Affairs
- Director, Economic Affairs, Trade and Industry Department
- The Inspector of Customs and Excise
- Chief Customs Inspectorate
- The commanders of Dutch naval vessels

The following persons/bodies have responsibility with regard to financial sanctions:

- The Cabinet, Minister of Finance
- Director of Finance
- Central Bank of Aruba

b. Wilful contravention of sanctions regulations is punishable by a term of imprisonment not exceeding one year or a fine of up to AWG 10,000. Otherwise the maximum penalty is four weeks imprisonment or a fine of AWG 3,000.

3a. The Central Bank has inquired of all banks whether Iraq and Iraqi and Kuwaiti nationals have assets on deposit or loans outstanding at banks based in Aruba. This turns out not to be the case.

b. Under regulations currently in force, financial or economic assets of this nature would be frozen if they were held.

4a. Compliance with economic sanctions is monitored by the customs authorities. As regards financial sanctions, any assets and loans would be or would have been frozen. Compliance with these sanctions is monitored by the Central Bank of Aruba.

b. The Central Bank is exercising continuous supervision.

5. The ministerial regulation on economic sanctions concerning Iraq and Kuwait contains no penal provisions. It provides solely for the monitoring of compliance with the sanctions. However, wilful contravention of this regulation is also a contravention of article 4 of the Ordinance on Imports and Exports, which is punishable by a term of imprisonment not exceeding one year or a fine of up to AWG 10,000. Otherwise, the maximum penalty is four weeks' detention or a fine of AWG 3,000.

Violation of the Governor's Decree on financial sanctions concerning Iraq and Kuwait is also a violation of article 4 of the Ordinance on Currency Dealings. Wilful contravention is punishable by a term of imprisonment not exceeding two years and/or a fine of up to AWG 25,000. Otherwise, contravention is regarded as a non-indictable offence and is punishable by a period of detention not exceeding six months and/or a fine of up to AWG 10,000.

6a. None.

b. The export of any commodity from Aruba intended for import to or transshipment via Iraq or Kuwait is prohibited. The same applies to the import to or export from Aruba of any commodity originating from Iraq or Kuwait, unless it can be shown that it was paid for and loaded before 7 August 1990 and does not comprise weapons or ammunition.

c. Any assets in existence would be frozen.

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14 November 1990

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SECURITY COUNCIL COMMITTEE ESTABLISHED BY
RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 13 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF BOTSWANA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Botswana to the United Nations presents its compliments to the Secretary-General and has the honour, in response to the latter's note of 8 October 1990, to transmit answers to the questionnaire on the implementation of Security Council resolution 661 (1990) concerning the situation between Iraq and Kuwait. The answers to the questionnaire are as follows:

1. Legislative framework

(a) (i) Control of Goods, Prices and Other Charges Act, Cap. 43:07;

(ii) Exchange Control Act, Cap. 53:03;

(b) Yes. Control of Goods (Prohibition of Exports to and Imports from Iraq and occupied Kuwait) Regulations 1990.

(c) A Presidential Directive has been issued to all government and parastatal organizations, all banks and all commercial organizations, requiring implementation of Security Council resolution 661 (1990) and detailing the provisions of the resolution. This Directive has been given publicity in the news and in the press.

Attached is Statutory Instrument No. 105 of 1990.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq to Kuwait

(a) The Department of Customs and Excise of the Botswana Government.

(b) The Department has been instructed to implement strictly the Prohibitory Regulations referred to in 1 (b) above.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

As in 2 above.

4. Control of financial or economic resources

(a) The Exchange Control Act, Cap. 55:03 and the Exchange Control Regulations.

(b) The Bank of Botswana, which administers the Act and the Regulations, has been instructed not to approve transfers in contravention of resolution 661 (1990).

5. Enforcement

The above legislation provides for forfeiture, seizures, substantial fines, and for imprisonment of up to five years of offenders depending on the laws in question and upon the circumstances.

Annex

STATUTORY INSTRUMENT NO. 105 OF 1990, PUBLISHED IN SUPPLEMENT C, BOTSWANA GOVERNMENT EXTRAORDINARY GAZETTE, DATED 29TH OCTOBER, 1990

CONTROL OF GOODS, PRICES AND OTHER CHARGES ACT
(Cap. 43:07)

CONTROL OF GOODS (IMPORTS FROM AND EXPORTS TO IRAQ OR OCCUPIED KUWAIT) REGULATIONS, 1990

(Published on 29th October, 1990)

IN EXERCISE of the powers conferred by section 3 of the Control of Goods, Prices and Other Charges Act, the Minister of Commerce and Industry hereby makes the following Regulations -

1. These Regulations may be cited as the Control of Goods (Imports to and Exports from Iraq or Occupied Kuwait) Regulations, 1990. — Citation

2. No person shall import any goods from, or export any goods to, Iraq or occupied Kuwait: — Prohibition of imports and exports

   Provided that the provisions of this regulation shall not apply to any goods exported to Iraq or occupied Kuwait for humanitarian purposes in accordance with any resolution of the United Nations.

3. Any goods being imported into Botswana or exported from Botswana in contravention of regulation 2 may be seized and shall be forfeited to the Government. — Forfeiture

MADE this 25th day of October, 1990.

D. N. MAGANG,
Acting Minister of Commerce and Industry.

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S AC.25/1990/44
15 November 1990

ORIGINAL: ENGLISH

SECURITY COUNCIL COMMITTEE
ESTABLISHED BY RESOLUTION
661 (1990) CONCERNING
THE SITUATION BETWEEN
IRAQ AND KUWAIT

LETTER DATED 7 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF BULGARIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to forward to you herewith the reply of the Government of the People's Republic of Bulgaria to your note verbale regarding additional information on the implementation of Security Council resolution 661 (1990).

(Signed) Dimitar KOSTOV
Ambassador
Permanent Representative
to the United Nations

Annex

Reply of the Government of Bulgaria regarding additional information on the implementation of Security Council resolution 661 (1990)

Bulgaria is of the view that Iraq's aggression against Kuwait constitutes a flagrant violation of the basic norms and principles of international law, as well as the founding principles of the Charter of the United Nations. Bulgaria continues to adhere to the policy of unconditional condemnation of Iraq's invasion of Kuwait and regards the latter's annexation as null and void. We firmly support the efforts of the international community in the United Nations aimed at the immediate withdrawal of the Iraqi troops from Kuwaiti territory and at the restoration of the independence, territorial integrity and legitimate Government of Kuwait.

Bulgaria favours a political settlement of the Persian Gulf crisis. We would welcome an Arab solution to the conflict based on the relevant Security Council resolutions.

We attach particular importance to the strict implementation of the resolutions of the Security Council as a necessary condition for the efficient functioning of the peace-keeping system embodied in the Charter. An expression of Bulgaria's desire to fulfil its obligations stemming from the decisions of the Security Council is our Grand National Assembly's decision to send a military medical group and a chemical defence unit to the Persian Gulf region in line with paragraph 3 of Security Council resolution 665 (1990) on the basis of a bilateral agreement with interested States and in case such assistance is requested by the Government of Saudi Arabia or the Government of another State having naval forces in the region for monitoring the implementation of the provisions of Security Council resolution 661 (1990) regarding the sea transportation of goods.

Guided by these general views, Bulgaria is strictly adhering to the provisions of resolution 661 (1990) and is pleased to forward the requested information.

Under Bulgaria's Constitution, the 1973 Regulations Act and its legal practice, resolution 661 (1990) was implemented not by a law but by a government Decree: Decree No. 90 of the Council of Ministers on the Implementation of resolution 661 (1990) of the Security Council of the United Nations. This was also necessitated by the urgency of the problem and the need for direct control over its implementation by the executive authorities. Decree No. 90 established a comprehensive legal mechanism for the strict implementation of the provisions of the said resolution.

The text of this decree was annexed to the Reply of the Government of Bulgaria to the relevant note of the Secretary-General of the United Nations and circulated as document S/21576.

In Bulgaria, control over the termination of imports from and exports to Iraq and Kuwait, as well as over various activities related to such transactions, is conducted by the customs administration, the Ministry of Foreign Economic Relations and the Ministry of Transport.

The measures taken by the Government and the above-mentioned authorities resulted in the complete termination of exports and imports of goods to and from Iraq and Kuwait by Bulgarian individuals and companies, as well as by foreign individuals and companies on Bulgarian territory, including those under already signed agreements.

A 281 ton-transit shipment of Pelergon powdered milk manufactured by Nestle and a 1,600 ton-transit shipment of Zinc Oxide Acid were detained at the port of Varna. The question of the powdered milk has been brought by Bulgaria to the attention of the Security Council Committee established by resolution 661 (1990) on several occasions with the request to grant permission for the shipment on humanitarian grounds, under international supervision.

Decree No. 90 envisages a special ban on all financial transactions with Iraq and Kuwait by Bulgarian nationals, organizations and companies, as well as by foreign nationals and companies in Bulgaria.

Article 4 of Decree No. 104 of the Council of Ministers requires that the Ministry of Finance freeze all Iraqi assets in Bulgarian banks.

The provisions of Decree No. 104 are implemented as a national legislative act and any violations are punishable under Bulgarian law.

The strict implementation of resolution 661 (1990) has resulted in severe economic consequences for Bulgaria, as stated in the declaration of the President of Bulgaria H.E. Mr. Zhelyu Zhelev, circulated as document S/21573, in his address to the General Assembly on 2 October 1990, as well as in the statement of Mr. Lyuben Gotzev, Minister for Foreign Affairs of Bulgaria, to the Security Council Committee established by resolution 661 (1990) on 3 October 1990. The latest figures indicate that Bulgaria's direct losses as a result of undelivered shipments of Iraqi oil, stopped exports of goods, unfulfilled contracts for transportation services as well as transportation equipment, machinery and raw materials left inactive in Iraq would amount to $1.4 billion by the end of 1990 calculated at $18 to $20 a barrel of crude oil. Given the current high oil prices this figure would be significantly higher. The losses in 1991, however, are expected to be much higher than those in 1990. Bulgaria is particularly concerned over the oil shortage which will place the economy in an extremely difficult energy situation in the coming winter.

In view thereof, Bulgaria has conducted consultations with the Security Council under Article 50 of the Charter of the United Nations in order to obtain assistance in resolving the serious economic problems resulting from the sanctions against Iraq. Bulgaria welcomed Security Council resolution 669 (1990) and looks forward to understanding and support in the discussion of this issue in the Security Council Committee established by resolution 661 (1990).

As far as Bulgaria's measures for implementing resolution 661 (1990) are concerned with reference to contracts that have already come into effect, Decree No. 90 includes a special text banning "all transactions related to goods and products originating from Iraq or Kuwait ... by Bulgarian individuals, organizations and companies, as well as by foreign individuals and companies on Bulgarian territory ...". The ban is in force for all goods of such origin regardless of the date on the contract for their delivery.

The question of the assets of Kuwait's legitimate Government is treated in article 4 of Decree No. 104, which requests the Ministry of Finance to "protect the assets of the legitimate Government of Kuwait and its organizations on Bulgarian territory".

In conclusion, Bulgaria would like to reiterate its full support for the efforts of the United Nations aimed at overcoming the crisis in the Persian Gulf, as well as its readiness to abide by its obligations under the relevant resolutions of the Security Council.

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SECURITY COUNCIL COMMITTEE ESTABLISHED BY
RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 14 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF BRAZIL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Brazil to the United Nations presents his compliments to the Secretary-General and, in response to his note of 8 October 1990, has the honour to transmit herewith the reply of the Brazilian Government to the questionnaire concerning national measures addressed to all States by the Security Council Committee established by resolution 661 (1990).

The Permanent Representative of Brazil requests that the reply of the Brazilian Government be forwarded to the Security Council Committee established by resolution 661 (1990).

Annex

Implementation of resolution 661 (1990): reply to questionnaire concerning national measures

Question 1

(a) Legislation was enacted by the Brazilian Government pursuant to article 84, item IV of the Federal Constitution and in accordance with Article 25 of the Charter of the United Nations, proclaimed by Decree 19.841 on 22 October 1946;

(b) Specific legislation enacted since the adoption of resolution 661 (1990): Decree 99.441, dated 7 August 1990, transforms the said resolution into national law;

(c) Administrative Decrees passed pursuant to the relevant laws are as follows:

(i) Government Directive No. 5, issued on 8 August 1990 by the Department of Foreign Trade of the Ministry of the Economy;

(ii) Communiqué 2.158, issued by the Central Bank of Brazil on 8 August 1990 and Communiqué 2.159, issued by the Department of Foreign Capital of the Central Bank on 10 August 1990.

Question 2

(a) The Department of Foreign Trade of the Ministry of the Economy, which is legally empowered to grant import licences, and the Federal Revenue Department and the Department of Federal Police, both responsible for enforcing controls on the import into Brazil of goods originating in Iraq or Kuwait.

(b) In order to legally enter Brazilian territory, all imports must be accompanied by an import licence issued on a case-by-case basis by the Department of Foreign Trade. The procedure is rigidly enforced, thus making supplementary measures unnecessary.

Question 3

(a) The same agencies that control imports.

(b) The same as in the case of imports. Thus, in order to legally exit Brazilian territory, all exports must be accompanied by an export licence issued on a case-by-case basis by the Department of Foreign Trade. The procedure is rigidly enforced, thus making supplementary measures unnecessary.

Question 4

(a) The Central Bank of Brazil has overall on-line control of all official exchange operations, thus impeding unauthorized transfers of financial or economic resources.

(b) The aforementioned Communiqué 2.158, issued by the Central Bank on 8 August 1990. It determines the suspension of all financial or economic transfers to Iraq and Kuwait or to the benefit of Iraq and its enterprises in any other territory.

Question 5

In observance of the legislation cited in answer 1 (c) above, government agencies will not issue the documentation required in order to legally promote imports, exports and transfers of economic or financial resources to Iraq and Kuwait. Fraudulent transaction is punishable by Brazilian law and offenders will be prosecuted.

Question 6

(a) From the operational standpoint, none. Nevertheless, full implementation of the said resolution will eventually represent a reduction of Brazilian exports to Iraq and Kuwait that may amount to approximately $US 307 million in 1990.

(b) The legislation mentioned in answer 1 (c) above is also applicable to contracts entered into or licences granted before the date of the resolution. The execution of these contracts and licences has thus been suspended.

(c) All financial and economic transfers to Kuwait have been suspended, including the debts that were to be defrayed by the Brazilian Government before the invasion of Kuwait by Iraqi troops.